

# EXHIBIT N

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE NORTHERN DISTRICT OF ILLINOIS  
3                   EASTERN DIVISION

4 JAMES JIRAK AND ROBERT )  
5 PEDERSEN, )

6                   Plaintiffs, )  
7                   ) )

8                   vs. )

CASE NO. 07 C 3626

9 ABBOTT LABORATORIES, INC., )

10                   Defendant. )  
11 \_\_\_\_\_ )

12  
13  
14                   DEPOSITION OF JAMES MARTIN,  
15                   taken on behalf of the Defendant at  
16                   555 South Flower Street, 15th Floor,  
17                   Los Angeles, California, on Friday,  
18                   August 7, 2009, at 10:04 A.M. before  
19                   Christine C. Gordon, Certified Shorthand  
20                   Reporter No. 7709.  
21  
22  
23  
24  
25

1           A     There was some sales training in the home  
2     study as well.

3           Q     So for the home study what kinds of sales  
4     training did you receive?

5           A     It was more so designed specifically for the  
6     product as of in terms of just informing us and  
7     increasing our knowledge of the product and the  
8     disease state so we would be able to communicate it  
9     effectively.

10          Q     Okay. But what about in Chicago, what kind  
11     of sales training did you have?

12          A     In Chicago it was more of the message that  
13     they wanted us to deliver to our customers.

14          Q     Can you explain that a little bit more?

15          A     More specifically looking at different  
16     patient types that a psychiatrist might see, for  
17     example, and the symptoms that those patients would  
18     present with and then how based on the messaging that  
19     we were given from corporate how that would be  
20     applicable to any situation.

21          Q     So were they giving you different scenarios?

22          A     Yes.

23          Q     And teaching you messaging skills for those  
24     scenarios?

25          A     Yes.

1           Q     So tell me a little bit more about the  
2     messaging that they -- that you were learning during  
3     this training. Were these things that you were  
4     expected to deliver verbatim during your sales calls?

5           A     Yes.

6           Q     And what kinds of messages are we talking  
7     about? A sentence? A paragraph?

8           A     More a couple of sentences usually that was  
9     the core message, and it spoke to tolerability,  
10    efficacy, and/or safety.

11          Q     So who developed these core messages?

12          A     The marketing department.

13          Q     And then how did you become aware of what the  
14    core messages were?

15          A     From the sales team, the sales division,  
16    sales training.

17          Q     Did the core messages ever change for your  
18    products?

19          A     Yes.

20          Q     And what would happen when one of them  
21    changed? Would they retrain you?

22          A     Either -- usually we wouldn't have to go all  
23    the way back to corporate for that. If there was a  
24    change it might change at a meeting that we would have  
25    locally like a district or regional meeting at which

1 time they would communicate to us the new core message  
2 or core messages that they wanted delivered.

3 Q So were you expected to use this core message  
4 on every sales call?

5 A Yes.

6 Q Were you expected to use it in the same way  
7 in every sales call?

8 A In the same way? Yes. In the same way, yes.

9 Q Were you trained on how you could adjust the  
10 message for a specific type of doctor?

11 A Not really because, again, the core message  
12 only changed like I said it might be for a different  
13 period of time, but when we had that core message,  
14 that was the core message that was to be delivered.

15 Q So even if a doctor had a unique patient  
16 population or, you know, something about their  
17 practice that was different than other doctors, you  
18 were expected to give the same message to that doctor?

19 A If there was a doctor that was unique to the  
20 core message it wouldn't be somebody we would be  
21 calling on because it wouldn't be in line with the  
22 messaging that we were delivering.

23 Q So aside from the core message were you  
24 trained on other things you were supposed to say to  
25 doctors?

1 morning and/or when I got home and definitely checked  
2 voicemail before I left.

3 Q So as far as the doctors you were supposed to  
4 see on a specific day, was that up to you to decide?

5 A In terms of -- yeah, we had a -- based off  
6 the call plan and frequency that we were required we  
7 had to make sure we got to the right doctors, so it  
8 was up to me, but in the confines of following -- you  
9 know, following the targeted number of calls to the  
10 appropriate physicians.

11 Q Let's look at this as we're talking about it.  
12 This is No. 8. Sorry. The printing is really small.  
13 I think it gets better on the next page.

14 A All right.

15 (Deposition Exhibit 8 was marked for  
16 identification by the court reporter.)

17 BY MS. OSE:

18 Q Do you know what this is?

19 A A call plan.

20 Q Okay. So how often would you receive this  
21 document or some version of this document?

22 A Call plans were usually quarterly.

23 Q Who did it come from?

24 A From corporate.

25 Q So let's look at what information is provided

1 Q And the page marked Abbott0061646, it looks  
2 to me like the same sort of call notes, the same sort  
3 of things you marked down before, but this one was  
4 sent to Lily Suk.

5 A Yes.

6 Q And she was your District Manager; correct?

7 A At the time, yes.

8 Q So why were you sending these to your  
9 District Manager?

10 A So she could be informed as to what took  
11 place at those calls.

12 Q Now, was that a special -- was that always  
13 required that you send it to your District Manager?

14 A No. Occasionally she would request it.

15 Q You just wanted to -- or she would request  
16 that you send it to her?

17 A Yes.

18 Q Okay. Did you find these sorts of notes  
19 helpful in keeping track of where your physicians were  
20 and where your customers were?

21 A Yes.

22 Q So many different types of information. I  
23 can imagine it was important.

24 A Yeah, because -- again, because of the  
25 different what we call channels, long-term care

1 A Yes.

2 Q And what was the purpose of it?

3 A Giving her my game plan or approach for the  
4 different accounts within the territory.

5 Q Was it something that she asked you to do or  
6 was it something that you did on your own?

7 A Something that she requested.

8 Q Just from you or from everyone in the  
9 territory?

10 A From everyone.

11 Q Did you come up with this plan of action  
12 yourself?

13 A No, in conjunction with working with her,  
14 getting input from her.

15 Q Did she give you input before you came up  
16 with it?

17 A Yes.

18 Q One part of your plan of action was:

19 "Aggressively selling versus newer AEDs,  
20 especially in neuro."

21 What did you mean by that?

22 A Selling against the newer anti-epileptic  
23 drugs that were on the market especially in neurology.

24 Q Do you remember why that was a specific goal  
25 of yours?

1 A No, I do not.

2 MS. OSE: Okay. I think that is it for me.  
3 Caleb?

4 MR. LIANG: Yes.

5 MS. OSE: Do you have anything?

6 MR. LIANG: I do have a few questions.  
7

8 EXAMINATION

9 BY MR. LIANG:

10 Q James, did you ever supervise anyone while  
11 working at Abbott Laboratories?

12 A No, I did not.

13 Q Were you involved in the development of any  
14 company-wide marketing strategies while working at  
15 Abbott?

16 A No, I was not.

17 Q Were you involved in the development of any  
18 company-wide advertising strategies while working at  
19 Abbott?

20 A No.

21 Q Were you involved in making any policies that  
22 were used or implemented on a policy-wide basis while  
23 working at Abbott?

24 A No.

25 Q You mentioned earlier that in 2006 it was a

1 unique year because you had a smaller bonus payment;  
2 is that right?

3 A Yes.

4 Q And your bonus payments or your payouts are  
5 based on changes in market share?

6 A Yes.

7 Q In 2006 did you change the way you made your  
8 calls in any significant way?

9 A No.

10 Q Did you change your pre-call planning in any  
11 significant way?

12 A No.

13 Q What about your actual call? Did you change  
14 that in terms of making an opening, making probing  
15 questions, providing demonstrations, and making a  
16 close?

17 MS. OSE: Objection, compound.

18 BY MR. LIANG:

19 Q Did you change the way you made your openings  
20 in your calls in 2006?

21 A No.

22 Q Your probing questions in 2006?

23 A No.

24 Q Demonstrations like referring to your visual  
25 aid?

1 A No.

2 Q Changes to your close? Did you make any of  
3 those in 2006?

4 A No.

5 Q Did you change the way you viewed your  
6 post-call notes in 2006?

7 A No.

8 Q Did you change in any significant way your  
9 work ethic or how hard you worked in 2006?

10 A No.

11 Q You also reviewed a year 2006 evaluation and  
12 there was this model -- excuse me, most effective  
13 sales call. Is that a phrase or terminology that  
14 Abbott uses?

15 A Yes.

16 Q So it's not like a descriptive of a call that  
17 was the most effective?

18 A No. It's more of something that's used in  
19 the marketing department as what a most effective  
20 sales call would be, the different components of it.

21 Q Is there training on this --

22 A Yes.

23 Q -- on most effective sales call?

24 A Yes.

25 Q Are there particular parts in the most